

S/N 10/626,509

Atty Dkt No. GP-302542 (GM0285PUS)

Remarks

Claims 1 – 21 are pending in this application. Claims 5, 6, 13, 14, and 19 are listed as withdrawn. Claim 21 was objected to; claims 10 and 11 are rejected under 35 USC 112; claims 1 – 4, 7 – 12, and 20 are rejected under 35 USC 102(e); claim 21 is rejected under 35 USC 102(b); and claims 15 – 18 are rejected under 35 USC 103(a). Claims 1, 7, 8, 20, and 21 are currently amended as are claims 2 – 4 and 9 – 12 which depend from an amended claim. Claims 15 – 18 are in their original form.

Applicants Respond Seriatim to Items Numbered in the Detailed Action

6, 7. Applicants affirms the election made by Kathryn Marra on August 8, 2005 to prosecute the invention of Group I, claims 1 -4, 7 – 12, 15 – 18, 20 and 21. Pending claims 5, 6, 13, 14 and 19 are withdrawn from further consideration. Inventorship is not amended.

8. Objection to claim 21 is believed to be overcome by amending the claim as suggested by the Examiner to delete “for”.

Claim Rejections – 35 USC § 112

10, 12. Claims 10 and 11 are rejected under 35 USC § 112, second paragraph, as being indefinite for failing to provide a sufficient antecedent for “said seat” in claim 10 and “said console” in claim 11.

Claim 10 adds the antecedent for “said seat” when it states in addition to the combinations of claims 9 and 7 “further comprising a seat, ...”. And claim 11 adds the antecedent for “said console” when it states in addition to the combinations of claims 9 and 7 “further comprising a console, ...”. Applicants respectfully request the Examiner to reconsider this rejection.

Claim Rejections – 35 USC § 102

15. Claims 1 – 4, 7 – 12, and 20 are rejected under 35 USC § 102(e) as being anticipated by Smythe (6,431,304).

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For a rejection to be proper under 35 U.S.C. §102(e), every element and limitation found in the rejected claim must be found in the 102(e) reference. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See MPEP §2131.

Smythe's seat 77 lacks "selectable multiple driving positions" as claimed and, accordingly, could not suggest "--pedals movably mounted in a track in accordance with the driving position selected". Claim 1 has been amended so that the vehicle and pedal assembly are combined. Claims 2 – 4 depend from amended claim 1 and are believed to patentably distinguish Smythe for at least the same reasons advanced for claim 1.

Claim 7 and accordingly dependent claims 8 – 12 have been amended to claim a "pedal arrangement in combination with a movable vehicle having a floorboard", "a guide mountable in said floorboard ... to establish a plurality of driving positions..." and a "foot pedal variably positionable in said floorboard at one of the plurality of driving positions established by said guide." The Smythe seat 77 is fixed and thus cannot have "a plurality of driving positions."

Claim 20 has been amended to require that the by-wire pedal system claimed is "adjustably mounted in a vehicle floorboard, the foot pedal being movable along a track in said floorboard." Smythe has no track in his floorboard.

16. Claims 7-12 and 20 are rejected under 35 USC § 102(e) as being anticipated by O'Neill (6,862,950). Claims 7, 8 and 20 have been amended.

Accordingly, O'Neill lacks a "guide mountable in said floorboard to establish a plurality of driving positions" and a "... pedal variably positionable in said floorboard at one of the plurality of driving positions...". O'Neill does not disclose a seat or its "driving positions" (claims 7 – 12) or a "foot pedal being movable along a track in said floorboard" (claim 20).

17. Claim 21 is rejected under 35 USC § 102(b) as being anticipated by Rixon et al. (6,295,890).

Claim 21 has been amended to require that the "pedal" (be) removably mounted in a vehicle floorboard for reconfiguration of the driving location, wherein the vehicle includes a plurality of driver interface points to which the foot pedal is connectable in said floorboard. This

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language is supported by Applicants' Figures 10, 11, 12 and 13. Rixon et al. is not concerned with "reconfiguration of the driving location" because he doesn't disclose more than one driving location nor "a plurality of driver interface points..." at which location a "removably mounted" pedal could be "connectable". Claim 21 is believed to be allowable.

Claim Rejections – 35 USC § 103

A proper rejection under 35 U.S.C. §103(a) requires that the Examiner establish *prima facie* obviousness. As recited in the MPEP, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." MPEP § 2142.

Three basic criteria must be met to establish *prima facie* obviousness. MPEP § 2142. First, there must be some suggestion or motivation to modify a reference or combine teachings. *Id.* Second, there must be reasonable expectation of success. *Id.* Third, the prior art reference or references must teach or suggest all the claimed limitations. *Id.*

19. Claims 15 – 18 are rejected under 35 USC § 103 (a) as being unpatentable over Smythe in view of Porter et al. (6,591,711). The Examiner adds Porter et al. to teach a pedal assembly with an actuator (8) for expanding the surface area of the pedal beam.

Applicants respectfully request the Examiner to reconsider his rejection of claims 15 – 18 since Porter et al. lacks:

"a third actuator connected to the beam for expanding the surface area of the beam." (see actuator 294 and expandable surface 298 in Applicants' Figure 24.

Porter et al. has two separate pedals, (1) as a parking brake and (2) as a service brake. The surface area of each remains unchanged, i.e., not expandable. The actuator (8) in Porter et al. "locks parking brake pedal lever 1 into a fixed position" (col. 4, lines 21 – 22). It does not affect the surface area of either pedal 1 or 2.

Conclusion

This amendment is believed to be fully responsive to the Office Action mailed 08/11/2005 and to place the case in condition for allowance. Claims 1, 7, 8, 20, and 21 and


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original claims 2, 3, 4, 9, 10, 11, and 12 depending from an amended claim are believed to be allowable. Original claims 15-18 are believed to be allowable in their original form.

Respectfully submitted,

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